

Waitomo District Council
Queen Street
PO Box 404
Te Kūiti 3941

23 October 2024

Attention: Independent Hearing Commissioners

Dear Hearing Commissioners

Written statement on behalf of Fire and Emergency New Zealand – Tranche 2: The hearing of the Proposed Waitomo District Plan: Ecosystems and Indigenous Biodiversity

Fire and Emergency New Zealand (Fire and Emergency) made a submission on the Proposed Waitomo District Plan (PDP). Fire and Emergency has opted not to attend Tranche 2 hearing of the Ecosystems and Indigenous Biodiversity topic and requests that, in lieu of attendance, this written statement be tabled for the Hearing Commissioners' consideration.

Fire and Emergency's submission: Fire and Emergency supported ECO-R7 to the extent that it enables the trimming, pruning or removal of indigenous vegetation to manage fire risk as a permitted activity.

Section 42A recommendation: Ms O'Callaghan has recommended amendments to ECO-R7 as follows:

ECO-R7.	In all zones to manage fire risk <u>where directed to do so by Fire and Emergency New Zealand.</u>
<p>Activity Status: PER</p> <p>Where:</p> <ol style="list-style-type: none"> From 20 October 2022 to 20 October 2032 any clearance must be no more than <u>either</u>: <ol style="list-style-type: none"> a maximum of 500 m² or less of indigenous vegetation <u>either</u> at any one time or in total cumulatively per holding: OR <ol style="list-style-type: none"> less than 1% of the SNA size <u>either</u> at any one time or in total cumulatively per holding – whichever is the lesser. For the avoidance of doubt, should this rule remain operative past 20 October 2032, the rule applies to subsequent 10-year periods. <p><u>NOTE: The area of each SNA is provided on the electronic version of the district plan maps.</u></p>	<p>Activity status where compliance is not achieved: The activity is subject to the provisions of ECO-R16.</p>

Ms O'Callaghan considers that the provisions of the Fire and Emergency New Zealand Act 2017 largely negate the need for this rule except to confirm that a (retrospective) resource consent is not required of owners directed by Fire and Emergency under section 65 (which enables Fire and Emergency to provide notice to landowners to remove vegetation for fire safety).

Fire and Emergency's response: Fire and Emergency do not support the recommended amendments to ECO-R7 for the following reasons.

It is important to note that Section 43 of the Fire and Emergency New Zealand Act 2017 provides Fire and Emergency personnel powers to remove vegetation when responding to an emergency. As defined by the Fire and Emergency New Zealand Act 2017, 'emergency' means:

"an event requiring an immediate action to protect and preserve life, prevent injury, or avoid damage to property and includes—

- (a) a fire (including an alarm of fire); and*
- (b) a hazardous substance emergency; and*
- (c) a state of emergency declared under the Civil Defence Emergency Management Act 2002; and*
- (d) any other substance emergency; and*
- (e) an incident attended by emergency services (including the New Zealand Police, FENZ, and hospital and health services)".*

As such, Section 43 does not provide Fire and Emergency powers to remove vegetation to manage fire risk (i.e. for fire risk reduction to prevent a fire emergency from occurring).

Section 65 does however enable Fire and Emergency to require (by notice) the occupier or the owner of land to remove or destroy any vegetation if Fire and Emergency reasonably considers that the vegetation is likely to endanger persons or property by increasing the risk of the outbreak or spread of fire.

Here is the link to how Fire and Emergency deal with fire hazard assessment requests and their assessment process: [Fire hazards in your community | Fire and Emergency New Zealand](#)

Fire and Emergency note that this is a viable mechanism under the Fire and Emergency New Zealand Act to reduce the risk of the outbreak or spread of fire however do not consider that the ability to remove indigenous vegetation within identified Significant Natural Areas (SNA) for the purpose of fire risk management should only be at the discretion of Fire and Emergency.

Fire and Emergency do acknowledge that the clearance of indigenous vegetation within SNAs requires sensible management to protect their values as per policy direction. As notified, the limits set out in ECO-R7(1) restrict landowners from clearing a maximum of 500m² or less of indigenous vegetation at any one time or in total cumulatively per holding OR less than 1% of the SNA size at any one time or in total cumulatively per holding – whichever is the lesser. It is noted that these limits also apply to ECO-R1 to R10. Where trimming, pruning or removal of indigenous vegetation exceeds these limits, then resource consent would be required under ECO-R16 as a Discretionary activity. Council would then have full discretion to consider the extent and requirement to remove indigenous vegetation to manage fire risk and would be able to consult with Fire and Emergency (if considered necessary) to determine the necessity of the proposed indigenous vegetation clearance for fire risk management purposes.

The recommended amendment by the reporting officer to require Fire and Emergency to direct the trimming, pruning or removal of indigenous vegetation would remove the ability for landowners to manage fire risk on their properties within the permitted thresholds of the district plan. This would also put an unreasonable and impracticable onus on Fire and Emergency to identify, review, assess and then direct the management of fire risk within SNAs (which will mostly be on private property) across the district.

Fire and Emergency consider that the district plan should provide landowners the ability to remove indigenous vegetation within the permitted thresholds without the need for direction from Fire and Emergency.

If the Panel consider that the limits set out in ECO-R7(1) are inappropriate for the purposes of managing fire risk, Fire and Emergency suggest a reduced limit and / or the introduction of a controlled or restricted discretionary activity status that would enable Council to have the discretion to assess the necessity of

indigenous vegetation removal to better align with the policy direction relating to SNAs. Fire and Emergency do however highlight the importance of not deterring landowners from managing fire risk through unreasonably requiring resource consent (at cost) to do so.

Fire and Emergency would welcome further collaboration or communication, should there be a need to discuss the matters raised in its submission and the details set out above.

Yours sincerely



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